

BEFORE THE ENVIRONMENT COURT

IN THE MATTER	of the Resource Management Act 1991
AND	of appeals under Clause 14 of the First Schedule to the Act
BETWEEN	BLUEHAVEN MANAGEMENT LIMITED ENV-2016-AKL-000153
AND	ROTORUA DISTRICT COUNCIL ENV-2016-AKL-000154 Appellants
AND	WESTERN BAY OF PLENTY DISTRICT COUNCIL Respondent
AND	QUAYSIDE PROPERTIES LIMITED Applicant

Environment Judge D A Kirkpatrick sitting alone under s 279 of the Act
In Chambers at Auckland

CONSENT ORDER

- [A] Under s 279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders that:
- (1) the appeals are allowed subject to the amendments set out in Annexure A and Annexure B to this order;
 - (2) the appeals are otherwise dismissed.
- [B] Under s 285 of the Resource Management Act 1991, there is no order as to costs.



REASONS

Introduction:

1. This proceeding concerns appeals by Bluehaven Management Limited and Rotorua District Council against decisions of Western Bay of Plenty District Council on Proposed Plan Change 72 to the Western Bay of Plenty District Plan – First Review, relating to Rangiuru Business Park.
2. Both appeals seek specific relief in relation to the proposed Community Service Areas within the Rangiuru Business Park.
3. The Court has read and considered the appeals and the memorandum of the Parties dated 3 May 2017, which proposes an agreed set of provisions to resolve the appeals.
4. Tauranga City Council, Bay of Plenty Regional Council, SmartGrowth Implementation Committee, Rotorua District Council and Te Puke Economic Development Group have given notice of their intention to become a party to the appeals under s 274 of the Act, and have signed the memorandum of the parties dated 3 May 2017.
5. The Court is making this order under s 279(1)(b) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to s 290. The Court understands for present purposes that:
 - 5.1 All parties to the proceedings have executed the memorandum requesting this order; and
 - 5.2 All parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to relevant requirements and objectives of the Act, and in particular Part 2.

Order

6. Therefore the Court orders, by consent, that the Decisions Version of Plan Change 72 (relevant parts of Section 21 - Industrial) is amended as shown in **Annexure A** underline (for additions) and ~~strikethrough~~ (for deletions), with a clean version shown at **Annexure B**.

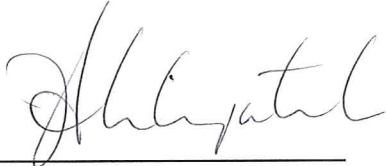


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7. The appeal is otherwise dismissed.

8. There is no order as to costs.

DATED at Auckland this *25th* day of *May* 2017.



D A Kirkpatrick
Environment Judge



Annexure A



21. Industrial

21.2 Objectives and Policies

21.2.2 Policies

7. Community Service Areas are provided within the Rangiuru Business Park to meet the day-to-day needs of the workers and other users of the Park.

21.3 Activity Lists

21.3.2 Additional Permitted Activities (Rangiuru Business Park only)

- (a) Takeaway food outlets with a maximum floor area of 350m². Such outlets can include dine in facilities where aligned to a permitted use in 21.3.1(g).
- (b) Handling, storage, processing, consignment and transportation of cargo.
- (c) Community Service Areas that meet the following criteria:
 - (i) Are located within 250m of either of the two intersections marked for such on the Rangiuru Business Park Structure Plan; and
 - (ii) Development within each of the two Community Service Areas must form a single contiguous development having a minimum net land area of 6,000m² and a maximum net land area of 20,000m²;
 - (iii) The combined total development area across both of the two Community Service Areas shall not exceed a maximum net land area of 2.6ha.

Note: Land uses within a Community Service Area may be held in lots which are smaller than the 6,000m² minimum provided they have contiguous boundaries and together exceed the minimum 6000m² net land area.

- (d) In the Community Service Areas of the Business Park only:



- (i) Offices (not covered by 21.3.1(p)) with a maximum floor area per activity of 200m², and a maximum cumulative gross floor area of 2000m².
- (ii) Retailing (not covered by 21.3.1(c)) ~~and involving a maximum floor area of 100m²~~ with a maximum floor area per activity of 200m², and a maximum cumulative gross floor area of 2000m².
- (iii) Places of assembly.
- (iv) Educational Facilities (limited to childcare/day-care/pre-school facilities).
- (v) Takeaway food outlets with a maximum floor area of 350m². Such outlets can include dine in facilities.

21.3.9 Additional Restricted Discretionary Activities – Rangiuru Business Park

- (a) For Lots 1 and 2 DPS 35211, Post Harvest Zone Restricted Discretionary Activities in accordance with that Zone until such time as the Rangiuru Business Park is developed in accordance with the *Structure Plan* and staging rules.
- (b) Offices that cause the maximum permitted cumulative gross floor area in the Community Service Areas (21.3.2(d)(i)) to be exceeded by no more than 1,000m².
- (c) Retailing that causes the maximum permitted cumulative gross floor area in the Community Service Areas (21.3.2(d)(ii)) to be exceeded by no more than 1,000m².

21.6 Matters of Discretion

21.6.4 Restricted Discretionary Activities – Rangiuru Business Park

For any office or retailing activity in 21.3.9 (b) or (c), Council's discretion is restricted to:

- i. The necessity for the additional gross floor area to provide for the actual demand for such services to meet the day-to-day needs of the workers and other users of the Rangiuru Business Park.



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- ii. Avoiding adverse office and retail distribution effects on existing or planned commercial centres within Rotorua District, Papamoa East UGA and Te Puke.



Annexure B



21. Industrial

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 - (ii) Development within each of the two Community Service Areas must form a single contiguous development having a minimum net land area of 6,000m² and a maximum net land area of 20,000m²;
 - (iii) The combined total development area across both of the two Community Service Areas shall not exceed a maximum net land area of 2.6ha.

Note: Land uses within a Community Service Area may be held in lots which are smaller than the 6,000m² minimum provided they have contiguous boundaries and together exceed the minimum 6000m² net land area.

- (d) In the Community Service Areas:



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- (ii) *Retailing* (not covered by 21.3.1(c)) with a maximum floor area per activity of 200m², and a maximum cumulative gross floor area of 2000m².
- (iii) Places of assembly.
- (iv) *Educational Facilities* (limited to childcare/day-care/pre-school facilities).
- (v) Takeaway food outlets with a maximum floor area of 350m². Such outlets can include dine in facilities.

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